



*Independent Companies. One Voice.*

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December 20, 2001

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
TW-A325  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: EB Docket No. 01-66;  
Supplemental Comments of the American Cable Association**

Dear Ms. Salas:

On behalf of ACA, I submit this letter to assist the Commission in evaluating the NCTA/NAD request that small cable systems be permitted to install an EAS decoder as an alternative to the current requirements of section 11.11.

ACA supports the NCTA/NAD proposal. Reducing EAS compliance costs will enable a number of small systems to meet the October 2002 compliance deadline. Still, the adoption of the NCTA/NAD proposal should not interfere with the small cable system EAS waiver process. ACA members operating hundreds of small cable systems must obtain relief from the October 2002 deadline. Even with a decoder-only option, hundreds of small systems will face serious financial hardship unless case-by-case relief is granted. The Commission has repeatedly assured us that financial hardship waivers would be available for small systems. ACA and its members are looking to the Enforcement Bureau to follow through on this commitment.

ACA represents the interests of more than 900 independent cable companies. Together, ACA members serve about 7.5 million cable and Internet subscribers, primarily in smaller markets and rural areas in all 50 states and in virtually every congressional district. ACA members range from small, family-run cable systems to multiple system operators focusing on smaller systems and smaller markets. About half of ACA's members serve less than 1,000 subscribers. ACA and its predecessor, the Small Cable Business Association, have actively participated in EAS proceedings since 1994.

ACA and its members share a vital interest in EAS implementation. Collectively, ACA members operate well over 5,000 cable systems. More than 1,000 of these systems serve fewer than 1,000 subscribers. Many of these systems serve less than 500 subscribers. Imposing on those very small systems the same EAS compliance costs as a system serving nearly 5,000 subscribers would, in the Commission's own words, be "financially ruinous"<sup>1</sup> and cause "irreparable harm."<sup>2</sup>

Based on our research, current costs for EAS equipment and installation for smaller headends range between \$7,500 and \$10,000. These costs include the benefits of volume discounts obtained through the National Cable Television Co-op. The decoder-only option may decrease these costs by 15 – 20%. Still, for operators of hundreds and hundreds of very small headends, even these compliance costs will impose an impossible financial burden in 2002.

As the Commission is well aware, these systems face a tremendous financial squeeze from forces including:

- **Sharply escalating programming costs.** Rates charged small cable operators for satellite and broadcast programming controlled by media conglomerates like Disney/ABC, GE/NBC, and Fox/News Corp. are continuing to increase well in excess of the rate of inflation.
- **Intense competition from the two national DBS companies.** Smaller, rural cable systems are facing intense competition from national DBS providers, EchoStar and DirecTV. To compete with DBS, small cable systems must invest all available capital in system upgrades necessary to increase channel capacity and offer advanced services. Still, small cable systems have lost, and continue to lose, subscribers to DBS – a competitor with no EAS obligations.

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<sup>1</sup> *In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, 10 FCC Rcd. 1786 (1994), ¶ 115

<sup>2</sup> *In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Order*, 12 FCC Rcd. 7924 (1997), ¶ 3.

For many small systems, the purchase and installation of costly EAS equipment in 2002 could mean the final turn on the financial vice squeezing these systems.

For these reasons, the Commission has repeatedly stated that it will grant EAS waivers for small systems that can demonstrate financial hardship. ACA anticipates that members operating hundreds of small headends will be seeking financial hardship waivers. ACA will support those waiver requests and will expect the Enforcement Bureau to follow through on the Commission's commitment to grant small system relief on a case-by-case basis.

With this in mind, ACA supports the EAS decoder-only proposal of NCTA/NAD. Any reduction in EAS compliance costs will increase the number of small systems that can meet the 2002 deadline. Still, even the cost of the decoder-only option will impose unacceptable financial hardship on many very small systems. Accordingly, the availability of the decoder-only option must not eliminate the availability of financial hardship waivers.

ACA will continue to work with the Commission and Congress to obtain broader small system relief.

Yours sincerely,



Matthew M. Polka

cc: Joseph Casey  
Christopher C. Cinnamon  
George Dillon  
Bonnie Gay  
John Norton